Mary Phagan Met Death on First Floor, Is Claim

Defense Will Endeavor to Show That Conley Struck Her in Head and Threw Her Down Elevator Shaft

ELEVATOR WAS NOT MOVED APRIL 26, IT IS CONTENDED

Blood Spots on Second Floor Explained by Fact That Employes Frequently Cut Fingers—Theory in Detail

From apparently reliable authority it was learned Monday that the theory to be advanced in defense of Leo M. Frank, the pencil factory superintendent, who has been indicted for the murder of Mary Phagan, will be that James Conley, the negro sweeper, and he alone, killed the girl and hid her body in the factory basement.

Notwithstanding Luther Z. Rosser, chief counsel for Frank, maintains his sphinxlike attitude and declines to discuss the theory of the defense, it is understood that the arguments in Frank's favor will be based upon the idea that Conley was without assistance in the commission of the crime and that Frank had no knowledge whatever of it.

The defense will, it is said, take the position that Mary Phagan was killed on the first floor of the factory at the foot of the stairs where the negro admits he was in hiding. The suggestion of the girl having been killed on the second floor, as declared by Conley in his affidavit of confession, will, it is said, be ridiculed.

It will be contended that Conley was in hiding on the first floor from about 9 o'clock in the morning, most probably with the intention of robbing some of the women employes who came for their pay.

It will be shown that many of the incidents which the negro swears happened while he was secluded among the boxes by the stairs occurred before Frank went over to Nelson street, and therefore, the negro must be lying when he says that he met the superintendent at the corner of Nelson and Forsyth streets and followed him back to the factory sometime between 10:30 and 11 o'clock.

The several different versions of the negro's story will be cited to show that he began by lying and only made admissions that he had knowledge of the crime when he was caught in lies. The claim will be set up that the negro is very cunning, had a perfect knowledge of the pencil factory and its operations, and has kept thoroughly posted on everything that has been published about the murder. This will be urged to substantiate the allegation that he has endeavored to make his "confession" fit the facts so far revealed.

ELEVATOR DIDN'T RUN.

But it will be insisted that despite the negro's cunning he has made many palpable misstatements of facts. Not only will it be claimed that the negro was in the factory in hiding long before Frank went to Nelson street, as is indicated by certain incidents described in detail, but it will be contended that contrary to the negro's statement the elevator did not run on Saturday, April 26.

Just how the defense will show this is not known, but that it feels that it can make such a showing and one that will be convincing is admitted by the close friends of Frank.

The negro's statement that he obtained from the cotton room on the second floor a large piece of gunny sack which he tied about the girl's body will be challenged and evidence will be submitted to show that on the fatal Saturday there were no empty gunny sacks in the cotton room, that the only sacks there were filled with cotton and that these were still in place on the following Monday.

To further substantiate this allegation it will be pointed out that the gunny sack which the negro said he tied about the body and which he declares he threw on the trash pile by the boiler along with the girl's hat and one of her shoes has never been found.

The hat and shoe were discovered on this trash pile a short while after the body was found, but there was no gunny sack there.

THEORY OF KILLING.

The theory of the defense will be, it is said, that after Mary Phagan got her pay envelope she immediately left the office on the second floor and proceeded down the stairs toward the street; that just as she reached the bottom, the negro, who was in hiding and who had seen her swinging a mesh handbag, stepped out from behind the boxes and struck her a blow on the head with a stick.

Attention will be called to the fact that the big doors leading to the street were closed, and it was entirely possible for the girl to have been felled without anyone outside on the street or anyone upstairs in the office being any the wiser.

Having knocked the girl down and rendered her unconscious, it will be contended, it is said, that the negro quickly pushed her through the elevator shaft, which was but six or eight feet to his left. Fearing that the girl may have recognized him and apprehending that she was not dead, the negro climbed down the ladder through the cubby hole and quickly tore off the hem of her underskirt, which he knotted around her neck, it being the most available instrument to check any possible outcry; after which he hunted around the basement and found a length of cord, which abounds in all parts of the factory.

Looping this cord around the girl's neck so that when it was pulled the knot would tighten, the negro dragged her back to the sawdust bin in the rear of the basement, where her body was found, it will be contended.

When he went back to the elevator shaft he found her hat and her purse, it will be argued. He placed the purse in his pocket, took the hat and started back toward the rear of the basement. On the way he picked up one of the girl's slippers, which had come off while she was being dragged. The hat and the slipper he tossed on the trash pile by the boiler.

In the darkness of the elevator shaft he overlooked the parasol, which he had tossed down with the girl's body.

OBJECT OF NOTES.

With a view, it is said, to directing suspicion to the other negroes employed in the factory, Conley wrote the two notes found near the body. The tablet paper upon which these were written, it will be asserted, can be found in all parts of the factory. One of them, the yellow order blank book, it will be claimed, belonged to an old discarded series and was morel likely to be on the trash pile than in the office.

The suggestion will, it is said, be advanced that the negro first wrote the two line note which simply stated: "That long, tall black negro did it by his self." Conceiving the idea that a note directed to the girl's mother might further lift suspicion from him the negro then wrote the second, in which he referred to the long, tall black negro and the night watchman.

When the negro got ready to leave the factory it will be asserted he found that Frank had gone to lunch and had locked the front doors. Then there was nothing left for him to do but pull the staple from the back basement door and make his escape from the factory through it.

BLOOD SPOTS EXPLAINED.

Little credence will, it is said, be placed by the defense in the alleged blood spots found near the dressing room door in the metal room on the second floor. It will be argued that these spots may or may not be blood. And to explain them if they are blood it will be shown that several times each week the employes cut their fingers and hands and the wounds frequently bleed on the floor.

It will be asserted by witnesses, it is said, that large quantities of anilines, and paints resembling blood are used at the factory and that possibly the spots at the dressing room door are nothing more than paint.

To further strengthen this idea it will be pointed out that the negro claims to have first found the girl's body in the little alleyway near the women's lavatory, some fifty or seventy-five feet from the alleged blood marks, and yet not a sign of blood can

be discovered there, although if the negro's story is true the body must have lain there for some time. Even admitting the truth of the negro's statements the defense will, it is claimed, call attention to the fact that the body remained at the dressing room door, where the negro says he dropped it, only so long as it required him to rush up to the front and call Frank to help him to the elevator with it. Therefore, it will be insisted if there was to have been any blood on the floor it would most likely have been at the spot where the body first fell and where it lay for so long.

Of course the above may not be the complete theory of the defense, but it is understood that the points set out will form the portions of the theory.

Frank Keeps Cheerful, Confident of Acquittal

Friends of Superintendent Leo M. Frank, who called upon him at the Fulton county jail Sunday, declare that they found him in excellent spirits. He patted several of his most intimate friends on the shoulder and advised them not to worry, declaring that everything would come out all right.

The indicted superintendent seemed to feel, it is said, that the affidavit of confession made by James Conley, the negro sweeper, sheds the first real light on the pencil factory tragedy, and he entertains the confident hope, it is said, that Conley will, under continued gruelling by the detectives, clear up every element of mystery surrounding the murder. When this is done Superintendent Frank expects, it is said, to be exonerated from all participation in or knowledge of the crime.

Frank reminded his friends that he had without reservation or evasion answered every question which had been put to him by the detectives and the coroner, and that up to date not a statement he made had been disproven.

He called the attention of his friends to the fact that after he returned to the factory at 3 o'clock on the afternoon of the murder he worked for hours making out a financial statement and asked them if they believed it possible for him to have gotten his

mind on figures and calculations if he had even known there was a dead body in the basement, to say nothing of what would have been his state of mind if he was burdened with the guilt of a murder.

Conley Sticks to Story; To Be Questioned Again

For the first time since his arrest, three days after the murder of Mary Phagan, James Conley, the negro sweeper, was provided with clean clothing Monday morning. His wife brought the clothing to police headquarters. The negro asserts that this is the first change of clothes he has made since Friday, April 25.

Conley still sticks to his confession. He insists that he has told the full truth, and that all he had to do with the murder of the girl was to assist Frank in taking her body to the factory basement and to write the two alibi notes, which, he says, he wrote at Frank's dictation.

The negro continues to assert that he would like to face Frank and tell his story face to face with the indicted superintendent. Both Chief of Police Beavers and Chief Lanford are anxious that Frank be confronted with the negro.

Monday morning Chief Beavers telephoned the office of Luther Z. Rosser, chief counsel for Frank, it being his purpose to make formal request of Mr. Rosser for a meeting between Frank and the negro. Mr. Rosser was engaged at the court hours and Chief Beavers announced that later in the day he would probably call upon Mr. Rosser in person and ask that the meeting be arranged.

The detectives hold to the opinion that Conley has told the truth in his confession, but Chief Lanford says that he will not discontinue his efforts to get further information from the negro.

"We will continue to question him from time to time," said the chief. "While we credit the negro's story as related in his affidavit we do not propose to rest upon our oars. What we want is the truth about this crime. We do not wish that an innocent man shall be prosecuted or punished, and if it could be shown to my

satisfaction that Frank had nothing to do with the murder I would not hesitate to say so, regardless of public sentiment or my previous conclusions."

Detectives Seek Purse Carried by Girl

The detectives are continuing a vigorous search for the pocketbook of Mary Phagan, no trace of which has been found in the weeks which have passed since her murder on April 26.

It was learned Monday that detectives have carefully and systematically searched the home of James Conley, the negro sweeper, without finding the pocketbook nor the hat ribbon which is missing.

The detectives received reports that factory employes found the purse in the elevator a short time after the tragedy, but so far as can be learned these reports are without foundation.

INDICTMENT NOT LIKELY.

It has been reported that efforts will be made to indict Conley as an accessory after the fact of the murder at the special meeting of the Fulton county grand jury, which will be held on Tuesday. This is extremely improbable, as there is little chance of any court action on Conley's case until after the trial of Superintendent Frank.

Chief of Detectives Lanford declares that he is not worried over the disappearance of Mrs. Nina Formsby [sic], the woman who made an affidavit to the effect that Frank called up her house a number of times between 6 and 10 p. m. on the evening of the tragedy.

Mrs. Formsby alleged that the factory superintendent wanted to secure a room.

Chief Lanford states that he will be able to produce the woman if she is needed. Mrs. Formsby is out of the city visiting friends, it is said.

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